

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21157

Application 30757 of

Neil Young
c/o Mr. Daniel F. Gallery
926 J Street, Suite 505
Sacramento, CA 95814-2786

filed on **September 4, 1998**, has been approved by the State Water Resources Control Board (SWRCB)
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

(1)(3) Two Unnamed Springs

Tributary to:

Unnamed Stream thence

El Corte de Madera Creek thence

San Gregorio Creek thence

Pacific Ocean

(2)(4)(5)(6) Three Unnamed Streams

El Corte de Madera Creek

within the County of **San Mateo**.

2. Location of point of diversion

By California Coordinate System of 1927, in Zone 3	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
UPPER RESERVOIR: Point of Diversion and Rediversion (Adjudication Diversion No. 178) (4) North 321,700 feet and East 1,472,100 feet	SE¼ of NE¼	32	6S	4W	MD

Diversion to Offstream Storage (Adjudication Diversion No. 175) (1) North 322,150 feet and East 1,472,300 feet	NE¼ of NE¼	32	6S	4W	MD
Diversion to Offstream Storage (Adjudication Diversion No. 176) (2) North 322,000 feet and East 1,472,800 feet	SE¼ of NE¼	32	6S	4W	MD
<u>LOWER RESERVOIR:</u> Point of Diversion and Rediversion (Adjudication Diversion No. 181) (5) North 320,750 feet and East 1,472,450 feet	NE¼ of SE¼	32	6S	4W	MD
Diversion to Offstream Storage (Adjudication Diversion No. 177) (3) North 321,500 feet and East 1,473,250 feet	SE¼ of NE¼	32	6S	4W	MD
Diversion to Offstream Storage (Adjudication Diversion No. 178) (4) North 321,700 feet and East 1,472,100 feet	SE¼ of NE¼	32	6S	4W	MD
Diversion to Offstream Storage (Adjudication Diversion No. 180) (6) North 320,800 feet and East 1,473,000 feet	SE¼ of NE¼	32	6S	4W	MD

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
Stockwatering						
Recreation						
Fire Protection						
Wildlife Enhancement						
	Upper Reservoir within SE¼ of NE¼	32	6S	4W	MD	
	Lower Reservoir within NE¼ of SE¼	32	6S	4W	MD	
Irrigation	NW¼ of SE¼	32	6S	4W	MD	10
	SW¼ of NE¼	32	6S	4W	MD	4
	SE¼ of NW¼	32	6S	4W	MD	25
	SW¼ of NW¼	32	6S	4W	MD	4
	NE¼ of SW¼	32	6S	4W	MD	7
	S½	31	31	4W	MD	70
					Total:	120

The place of use is shown on map on file with the SWRCB.

5. **Quantity - Storage, multiple.** The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 10 acre-feet per annum to be collected from November 1 of each year to April 30 of the succeeding year as follows: 3 acre-feet per annum in Upper Reservoir, and 7 acre-feet per annum in Lower Reservoir.

(0000005D)

6. **No Offseason Storage.** This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000005I)

7. **Rate of Diversion to Offstream Storage.** The maximum rate of diversion to offstream storage shall not exceed .25 cubic feet per second.

(0000005J)

8. **Complete Use.** Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2013.

(0000009)

9. **Maintain Existing Outlet Pipe.** Permittee shall maintain the existing outlet pipe through the dams in Upper Reservoir and Lower Reservoir in proper working order.

(000000S)

10. **Adjudicated Rights.** Rights under this permit are, and shall be, specifically subject to existing rights determined by the San Gregorio Creek Adjudication, filed in the Superior Court of the State of California in and for the County of San Mateo, Decree No. 355792, insofar as said adjudicated rights are maintained.

(0000023)

11. **Protection of Fish and Wildlife.** For the protection of fish and wildlife resources in El Corte de Madera Creek, County of San Mateo, permittee shall maintain a minimum pool of 3 acre-feet in Upper Reservoir and a minimum pool of 7 acre-feet in Lower Reservoir.

(0140060M)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

A. **Reduction in License.** The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

B. **Progress Reports.** Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.

(0000010)

C. **Access to Project.** Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

D. **Continuing Authority.** Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this

paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

E. Water Quality Objectives. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

F. Endangered Species. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

G. Water Diversion and Use Records. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

H. Stream Alteration Agreement. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

I. Cultural Resources Protection. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic

period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.

(0000215)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

James W. Kassel
for Edward C. Anton, Chief
Division of Water Rights

Dated: JUL 30 2003